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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91182604
Party	Plaintiff Cornerstone BioPharma, Inc.
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Submission	Answer to Counterclaim
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Date	05/16/2008
Attachments	Reply_20080516160404.pdf (4 pages)(139596 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 77/226,994

Filed: July 11, 2007

Mark: VISRX

Published in the Official Gazette: December 25, 2007

CORNERSTONE BIOPHARMA, INC.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91182604
)	
VISION PHARMA, LLC,)	
)	
Applicant.)	

REPLY TO COUNTERCLAIMS

Opposer, Cornerstone BioPharma, Inc. ("Cornerstone" or "Opposer"), hereby replies to the counterclaims asserted herein by Applicant, Vision Pharma, LLC ("Vision" or "Applicant").

In response to the allegations set forth in the individually-numbered paragraphs of the counterclaims, Opposer states as follows:

**COUNT I
PETITION FOR CANCELLATION OF U.S. REG. NO. 3,384,232**

1. Opposer admits that Applicant purports to petition for cancellation of U.S. Registration No. 3,384,232, dated February 8, 2008, for the mark ALLERX (stylized) owned by Cornerstone and that Applicant purports to make certain allegations in support of such petition in paragraphs 2 through 7. Except as expressly admitted, the allegations set forth in paragraph 1 are denied.

2. Opposer admits that Applicant distributes pharmaceuticals and that it claims that its VisRx product is directed toward the temporary relief of symptoms associated with allergic rhinitis. Opposer is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in paragraph 2 and therefore denies same.

3. Opposer admits that the term "ALLERX" contains the letters "ALLE" and the letters "RX;" that the letters "ALLE" are the first four letters of the words "allergy," "allergic," "allergen," and other words; and that "RX" is an accepted abbreviation for prescriptions or prescription medications. Except as expressly admitted, the allegations set forth in paragraph 3 are denied.

4. Opposer denies the allegations set forth in paragraph 4.

5. Opposer denies the allegations set forth in paragraph 5.

6. Opposer denies the allegations set forth in paragraph 6.

7. Opposer denies the allegations set forth in paragraph 7.

COUNT II
PETITION FOR CANCELLATION OF U.S. REG. NO. 2,448,112

8. Opposer admits that Applicant purports to petition for cancellation of U.S. Registration No. 2,448,112, dated May 1, 2001, for the mark ALLERX owned by Cornerstone and that Applicant purports to make certain allegations in support of such petition in paragraphs 9 through 14. Except as expressly admitted, the allegations set forth in paragraph 8 are denied.

9. Opposer admits the allegations set forth in paragraph 9.

10. Opposer denies the allegations set forth in paragraph 10.

11. Opposer admits that it submitted a Section 8 affidavit for the mark ALLERX on or about October 29, 2007, that such affidavit is in writing and speaks for itself, and that the

affidavit was accepted by the U.S. Patent and Trademark Office on or about November 10, 2007.

Except as expressly admitted herein, the allegations set forth in paragraph 11 are denied.

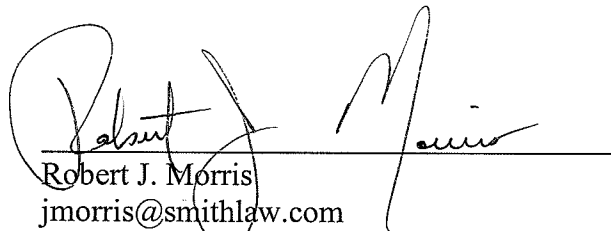
12. Opposer denies the allegations set forth in paragraph 12.
13. Opposer denies the allegations set forth in paragraph 13.
14. Opposer denies the allegations set forth in paragraph 14.

AFFIRMATIVE DEFENSES

1. Applicant has failed to state a claim upon which relief can be granted.
2. If the mark ALLERX (stylized) covered by U.S. Reg. No. 3,384,232 is deemed to be purely descriptive in nature (which is denied), the mark has acquired secondary meaning.
3. Opposer reserves the right to assert as an affirmative defense any other matter that may be revealed through investigation or discovery.

WHEREFORE, Opposer requests that Applicant's counterclaims be rejected.

This the 16th day of May, 2008.



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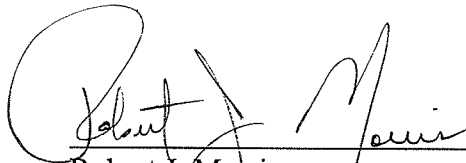
Attorneys for Opposer
Cornerstone BioPharma, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply to Counterclaims was served on counsel of record for Applicant, Vision Pharma, LLC, by depositing a copy hereof in the United States mail, first-class postage prepaid, addressed as follows:

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This the 16th day of May, 2008.

A handwritten signature in black ink, appearing to read "Robert J. Morris", is written over a horizontal line.

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